IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.1277 OF 2007

Mahesh Sahakari Bank Ltd. .. Petitioner.
Vs.
Municipal Corporation of
Greater Mumbai & Ors. .. Respondents.

Mr.Birendra Saraf with S.Bangur i/b V.Deshpande for the petitioner.
Ms.A.R.Joshi for respondent nos.1 and 2.
Mr.Y.M.Chaudhari for respondent nos.3 and 4.

CORAM : D.B.BHOSALE, J.
DATED : 10TH JULY, 2007.

P.C.:

. Heard learned counsel for the parties.

2. By this writ petition, the petitioners have impugned two orders, both dated 24.1.2007 and 28.2.2007. Both the orders reads thus:

> (i) "Respondents Advocate present. No W.S. filed till today. Hence appeal be ordered to proceed exparte against Respondents. Adjourned to 18.06.2007 at 11.00 a.m. for exparte hearing. Appellant is further directed to comply the section 217(2) (d) of the M.M.C. Act before the next date."
>
> (ii) "Heard. There is no provision to stay the Order passed by the U/Sec.217(2)(d) dt. 24.01.2007 in law and this Court has no power to stay the recovery of property taxes or to waive.
>
> . The Appellant have to comply mandatory and statutory provision U/Sec.217(2)(d) of M.M.C. Act for entertaining the appeal and it is binding on appellant. Heard, the prayer made by

appellant in clause (a) and (b) are rejected."

3. Insofar as the first order dated 24.1.2007 is concerned Mr.Saraf, learned counsel for the petitioner fairly stated that the petitioners have no objection if the respondent-corporation is allowed to file written statement within four weeks from today. Insofar as the direction to comply with section 217(2)(d) of the Mumbai Municipal Corporation Act (for short "the Act") and the second order is concerned, the provisions of section 217(2)(d) being mandatory in nature the petitioners will have to comply with the direction given in the order dated 24.1.2007. Such order cannot be stayed. Both the learned counsel for parties fairly stated that I need not record reasons for disposing of this petition. In the circumstances I dispose of this writ petition by the following order:

(i) The petitioners are allowed to comply with the provisions under section 217(2)(d) of the Act within four weeks from today. On depositing the amount as envisaged under the aforesaid provisions within the time aforementioned the appeal be heard on merits in accordance with law.

(ii) In view of the statement made by the learned

counsel for the petitioners, the respondent-corporation is allowed to file their written statement within four weeks from today failing which the small causes court to proceed and dispose of the appeal without written statement.

(iii) In view of the aforesaid directions both the orders impugned in the present writ petition render ineffective.

. The writ petition is disposed of.

(D.B.BHOSALE, J.)